

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JULIE TOTH,

Plaintiff,

v.

INA LIFE INSURANCE COMPANY
OF NEW YORK, et al.,

Defendants.

No. CV 08-653-JE

OPINION AND ORDER

MOSMAN, J.,

On June 18, 2009, Magistrate Judge Jelderks issued Findings and Recommendation ("F&R") (#38) in the above-captioned case recommending that I GRANT plaintiff's Motion for Summary Judgment (#19) and DENY defendants' Cross Motion for Summary Judgment (#28), and that judgment should be entered requiring defendants to restore plaintiff's long term disability payments, pay past due benefits with interest, and pay plaintiff's reasonable attorney fees. No objection to the F&R was filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination of those portions of the report or specified findings or recommendation as

to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Jelderks's recommendation, and I ADOPT the F&R (#38) as my own opinion.

IT IS SO ORDERED.

DATED this 13th day of July, 2009.

/s/ Michael W. Mosman

MICHAEL W. MOSMAN
United States District Court